

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

CENTREVILLE CITIZENS FOR
CHANGE, *et al.*,

Plaintiffs,

vs.

CITY OF CAHOKIA HEIGHTS,
COMMONFIELDS OF CAHOKIA PUBLIC
WATER DISTRICT,
METRO EAST SANITARY DISTRICT,

Defendants.

Case No.: 21-cv-842-DWD

CAHOKIA HEIGHTS' MAY 1, 2024 STATUS REPORT

Defendant City of Cahokia Heights (“Cahokia Heights” or “the City”) hereby files this status report, pursuant to the Court’s April 1, 2024 Order (Doc. 165).

The Order required Defendants to distribute the forthcoming Consent Decree between the United States Environmental Protection Agency (“U.S. EPA”), Illinois Environmental Protection Agency (“Illinois EPA,” and, together with U.S. EPA, the “Agencies”) and the City of Cahokia Heights’ (“Cahokia Heights” or “the City”) (the “Consent Decree”) to Plaintiffs by May 1, 2024, and in the event that Defendants are unable to provide Plaintiffs with the Consent Decree, file a status report by May 1, 2024 explaining the reason for the delay.

As explained in the May 1, 2024 letter submitted to the Court under separate cover by Lauren D. Grady, Trial Attorney with the U.S. Department of Justice, and Andrew Armstrong, Chief of the Environmental Bureau with the Illinois Attorney General’s Office, on behalf of the Agencies (the “Agency Letter”), Cahokia Heights and the Agencies have reached a preliminary agreement on the terms of the Consent Decree, which has now been provided to management of both Agencies for review. A true and accurate copy of the Agency Letter is attached hereto as

Exhibit A. The Consent Decree is the result of good faith efforts by the City and the Agencies to complete negotiations as expeditiously as possible. Since October 2023, the City and Agencies have held negotiation sessions nearly every week to discuss the Consent Decree, and since April 15, 2024, have met multiple times a week (and, where necessary, more than once a day) to resolve final details, most recently including multiple meetings on May 1, 2024.

While the parties' negotiations are substantially complete, the policy of both Agencies requires management review before any consent decree is final and can be shared with the public. As a result, the Agencies previously agreed to provide CCC with the Consent Decree *after* initial review by the management of both Agencies. Consistent with this prior understanding, the Agencies will provide the Consent Decree to CCC upon completion of this initial review.¹

As noted in the Agency Letter and as Defendants have previously informed the Court, SSOs will continue to occur while sewer repair work is ongoing. Three SSOs have occurred since the Defendants' February 1, 2024 Status Report and related filings.² In order to better understand the cause of these SSOs, the City has been monitoring rain data in the area. A true and accurate recording of rainfall data in the City from January 8, 2024 to April 29, 2024 is attached hereto as Exhibit C. The SSOs reported since Defendants' February 1, 2024 Status Report include the following:

- On April 2, 2024, an SSO was reported at 219 N. 82nd Street. Approximately 1.41 inches of rain fell on that day. Approximately 1.15 inches of rain also fell in the area a few days before on March 27, 2024. *See* Exhibit C.

¹ While the Court's Order required Defendants to provide the Consent Decree to Plaintiffs by May 1, the Agencies' prior agreement was to provide the Consent Decree only to CCC. As a result, only CCC executed a confidentiality agreement with the Agencies to facilitate access to the Consent Decree before it was final and ready for review by the general public. In email correspondence dated April 24, 2024, counsel confirmed that all Plaintiffs who wish to receive a copy of the Consent Decree are CCC members. A true and accurate copy of the April 24, 2024 email is attached hereto as Exhibit B.

² The Agency Letter also discusses a fourth SSO that occurred from January 24, 2024 through February 12, 2024. This SSO was discussed in Defendants' Reply in Support of their Status Report. (Doc. 161-1 at 7.)

- On April 11, 2024, an SSO was reported at 219 N. 82nd Street. Approximately 2 inches of rain fell on that day. *See Exhibit C.*
- On April 27, 2024 an SSO was reported at 219 N. 82nd Street. At least 1.61 inches of rain fell between April 23 and April 27, 2024. *See Exhibit C.*

The City responded to each of the SSOs, installed signs to notify residents, and performed cleanup of the affected areas.

As noted in the Agency Letter, the City also received and responded to a number of sewer related complaints throughout the entire City of Cahokia Heights (not just the areas that are the subject of this litigation) since Defendants' February 1, 2024 status report. The City responds to each of these complaints and conducts an investigation. The majority of these complaints were the result of clogged or broken private sewer laterals owned by the homeowners at the address.³

I. Conclusion

As outlined herein, Consent Decree negotiations between Cahokia Heights and the Agencies are substantially complete, and the Consent Decree has been provided to the Agencies' management for review. Cahokia Heights will provide an additional update to the Court by May 30, 2024 regarding the status of the Consent Decree, or by an earlier date as directed by the Court.

Respectfully submitted,

THE CITY OF CAHOKIA HEIGHTS,
Defendant

/s/ Erica M. Spitzig
TAFT STETTINIUS & HOLLISTER LLP
Erica M. Spitzig, *admitted pro hac vice*

TAFT STETTINIUS & HOLLISTER LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

³ Further details of these reports and investigations are included in the Status Reports submitted by Cahokia Heights under the Administrative Order on Consent. Cahokia Heights can submit copies of these reports, should the Court wish to review.

Telephone: (513) 381-2838
Facsimile: (513) 381-0205
espitzig@taftlaw.com

HEYL, ROYSTER, VOELKER & ALLEN, P.C.
105 West Vandalia, Suite 100
Edwardsville, IL 62025-0467
Telephone: 618.656.4646
Facsimile: 309.420.0402
PRIMARY E-MAIL: edwecf@heyloyster.com
SECONDARY E-MAIL #1: abarron@heyloyster.com

PRACTUS, LLP
P.O. Box 28929
St. Louis, MO 63132
Telephone 314.753.2443
gregg.kinney@practus.com

THE CITY OF CAHOKIA HEIGHTS,
Defendant

BY: /s/ Ann C. Barron (with consent)
HEYL, ROYSTER, VOELKER & ALLEN,
P.C.
Ann C. Barron, ARDC #6224429

THE CITY OF CAHOKIA HEIGHTS,
Defendant

BY: /s/ Greg A. Kinney (with consent)
PRACTUS, LLP
Gregg A. Kinney, ARDC # 6210671

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Anna M. Sewell
Mary K. Rock
Courtney Bowie
Susan Kraham
Earthjustice

asewell@earthjustice.org
mrock@earthjustice.org
cbowie@earthjustice.org
skraham@earthjustice.org

Gregg A. Kinney

Practus, LLP
gregg.kinney@practus.com

Ann C. Barron

Maria E. Mengarelli
Heyl, Royster, Voelker & Allen, P.C.
abarron@heyldroyster.com
mmengarelli@heyldroyster.com

James E. Godfrey, Jr.

Kerry Banahan
Katherin Asfour
Evans & Dixon, LLC
jgodfrey@evans-dixon.com
kbahanan@evans-dixon.com
kasfour@evans-dixon.com

Nicole Denise Nelson
Equity Legal Services, Inc.
nnelson@equitylegalservices.org

Kalila Jelani Jackson
Metropolitan St. Louis Equal Housing
kjackson@ehoc-stl.org

Colter Kennedy
Eric B. Krauss
Jim McCarthy
Guntty & McCarthy Law Offices
ckennedy@guntymccarthy.com
ekrauss@guntymccarthy.com
jmccarthy@guntymccarthy.com

/s/ Erica M. Spitzig